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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 SALVADOR OLGUIN,

12 Petitioner,

13 v.

14 UNITED STATES OF AMERICA,

15 Respondent.
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CASE NO. 00-CV-1969 W
96-CR-1098 W

17 ORDER DENYING PETITION
18 FOR WRIT OF HABEAS
19 CORPUS
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21 On January 18, 2006, Petitioner Salvador Olguin ("Petitioner"), a federal prisoner
22 proceeding *pro se*, submitted a Petition for Writ of Habeas Corpus under 28 U.S.C. §
23 2255. [Doc. No. 136.] On July 14, 2007, this Court issued an Order Denying
24 Petitioner's Request for a Writ of Habeas Corpus. [Doc. No. 143.]

25 Meanwhile, on July 9, 2007, Petitioner filed an application with the Ninth Circuit
26 for authorization to file a second or successive 28 U.S.C. § 2255 motion. On September
27 12, 2007, the Ninth Circuit denied the application and ordered that "[n]o petition for
28 rehearing or motion for reconsideration shall be filed or entertained in this case." [Doc.
No. 147.]

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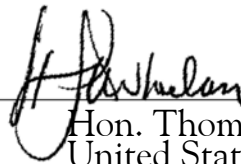
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1 On November 9, 2007, Petitioner filed a "Memorandum Of Law In Support Of
2 Petition Pursuant To 'Title 18, United States Code, Section § 3582(c)(2)' and 'United
3 States Sentencing Guidelines §§ 1B1.10, 2D1.1(c), 4A1, 2(c)' For Re-Sentencing As
4 To The Intervening Change 'In Any Illicit Drug' 'Methamphetamine, Marijuana,
5 Herion [sic], Powder Cocaine' and 'Criminal History Category and Points Guideline.'"
6 [Doc. No. 151.] Because the motion challenges Petitioner's sentence and was filed in
7 Petitioner's habeas case, the Court construes the motion as another Petition for Writ
8 of Habeas Corpus under 28 U.S.C. § 2255.

9 In light of the Ninth Circuit's September 12, 2007 order, this Court cannot rule
10 on the merits of Petitioner's claim. The Petition [Doc. No. 151] is therefore **DENIED**
11 and the Clerk of the Court shall close the district court file.¹

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14 **IT IS SO ORDERED.**

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22 DATED: January 8, 2008

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25 Hon. Thomas J. Whelan
26 United States District Judge

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28 ¹ Even if the Petition was construed as a motion for reconsideration of this Court's prior Order Denying Petitioner's Request for a Writ of Habeas Corpus, the Court could not decide the motion because the Ninth Circuit ordered that no "motion for reconsideration shall be filed or entertained in this case." [See Doc. No. 147.]

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